

MADISON COUNTY PLANNING BOARD

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STAFF REPORT

June 19, 2007

PROPOSED: Cote Meadows Minor Subdivision

Landowner: Miller Cattle Company
Rob Miller
P.O. Box 184
Alder, MT 59710

Landowner Frank Colwell
Representative: P.O. Box 400
Twin Bridges, MT 59754

SUBDIVISION APPLICATION COMPLETENESS

In accordance with the Madison County Subdivision Regulations, County planning staff have reviewed this application for completeness and found it to be complete (See Attachment One).

BACKGROUND

This 51.06 acre property is located approximately 3-3.5 miles southwest of Alder in Section 20, Township 6 South, Range 4 West. The proposal would create four single family residential/agricultural lots ranging in size from 2.72 acres to 18.7 acres. The subdivision will be accessed by a county road, Judy Lane. As illustrated on the plat, Lots 1, 2, and 4 will be accessed by a new subdivision road, Cote Lane¹ and Lot 3 will be accessed by a private driveway off of Judy Lane. (See Attachment Two for a photo summary).

The property is predominantly flat with a gentle slope to the northeast. The West Bench Canal traverses through the center of the property and serves as the lot boundary for some of the lots. All of the lots would contain individual wells and septic systems. A weed plan has been submitted to the County Weed Board for approval.

The land is located in a predominantly agricultural area with some residential development in the vicinity. Agricultural lands are immediately adjacent to the west and north, and state land borders the site on the south and west. Some rural residential development also lies further to the north. This property has historically been used for grazing and haying with some flood irrigation. The landowner plans to increase and improve irrigation practices on both the subdivision property and the adjacent agricultural property to the east by installing new irrigation equipment. A new pivot will be installed

¹ The road name Cote Lane has been reviewed by the Madison County Sheriff's Office for E-911 purposes. The name must be changed as the pronunciation may be confusing for emergency service providers.

on the adjacent ag land, while the subdivision lots will be irrigated by way of a sump pond and sprinkler system.

The subdivision application included a set of draft private covenants. Some of the covenants features include:

- Disclosure about agricultural activities in the area
- Explanation of weed control obligations for lot owners
- No further subdivision
- Building envelopes that will be defined after DEQ approval
- Limits on commercial uses
- Design standards (1,800 square ft. minimum and maximum height of 18 ft.)
- Downward lighting provisions, wildlife-friendly fencing, buried utilities
- Pet control
- Limits on grazing with a vegetation height of 3-4 inches (limit of one hoofed animal per two acres)
- Road maintenance agreement for Cote Lane

RECENT AGENCY AND PUBLIC COMMENTS

The Madison County Office of Emergency Management has submitted a letter outlining several safety recommendations. This letter is included in the subdivision application. A very recent comment received via email from Risk Mitigation Coordinator Joe Husar further evaluated the safety of the project. (See Attachment Three.) A letter from the Sheriff's Office has been received indicating approximate emergency response time. The Madison County Weed Board has provided a letter indicating that the noxious weed management plan will need county approval. A letter has been received from the Ruby Valley Ambulance Service explaining ambulance service and potential obstacles to service. Also, 3 Rivers Communications has sent a letter stating that telephone service can be provided.

STAFF DISCUSSION

A. Effects on Agriculture

The effects on agriculture will likely be positive in this case. According to the subdivision application, Miller Cattle Company plans to enhance and improve the irrigation practices on the subdivision property and also on Miller agricultural property to the east. A new pivot sprinkler irrigation system will be installed on the adjacent property to the east. The subdivision application states that all lots will be irrigated via a pumped sprinkler system with pumps, motors and a buried mainline that will be installed by the developer. The irrigation water will be diverted from the West Bench Canal into a sump pond and distributed to all of the subdivision lots.

The landowner already has water shares from the Ruby River Water User's Association and the West Bench Canal. A Cote Meadows Water User's Association will be formed by the developer to oversee the irrigation and maintenance of facilities.

This subdivision project will place more acres of land in irrigation and also likely improve the method of irrigation with the installation of new equipment. The agricultural

productivity and utility of the land will be increased by the irrigation improvements included with this subdivision.

Potential negative impacts could result from domestic pet control issues, fencing issues, weed problems, and overgrazing of the lots. The covenants could potentially help mitigate negative impacts on agriculture. The Right to Farm Declaration (Appendix R.) should be recorded with the final plat.

B. Effects on Agricultural Water User Facilities

The effects on agricultural water users should be relatively minimal so long as the amount of allocated water rights is not exceeded and a water user's association is formed to manage irrigation. The West Bench Canal runs through the property and already has a recorded access and maintenance easement. The easement has a distance of 40 ft. from the centerline on the west side and 60 ft. from the centerline on the east side. This easement is showing on the preliminary plat and also should show on the final plat. The subdivision application states that there will be no building or other activity inside the canal easement. Also, there should be no overlapping of the canal easement and the road/utility other than the point which the subdivision road will pass over the canal.

There should be no significant negative impact on water users so long as there is a water user's association to manage the water use and the canal easement is respected.

C. Effects on Local Services

There will be some increased demand upon local services and local service providers with the addition of four more residential lots in this area. This proposed development is approximately 3-3.5 miles from Alder and about 13 miles from Sheridan.

Local emergency service providers have been notified of this subdivision proposal and some have expressed comments regarding public health and safety. Letters from the Sheriff's Office and Office of Emergency Management have estimated response times of approximately 5-10 minutes for fire, 15-20 minutes for law enforcement, and 10-20 minutes for emergency services. A letter from the Ruby Valley Ambulance estimated response times to be between 15-30 minutes depending on conditions. (For comments regarding safety see the section titled, Effects on Public Health and Safety.) A Declaration of Emergency Services Information should be recorded with the final plat.

3 Rivers Communications has indicated that telephone service will be made available to the lots. Northwestern Energy will provide underground electrical service to subdivision lots. The nearby schools have the capacity to service more students.

D. Effects on the Natural Environment

There will likely be some impact on the natural environment with this subdivision. The disturbance from building, road, and driveway construction will likely pose some negative effects on the natural environment. The relatively long driveway accesses for Lots 1 and 4 will likely pose the greatest negative impacts. The reseeding of these areas and careful implementation of a county approved noxious weed management plan will help mitigate negative impacts associated with the natural environment. A noxious weed management plan has been submitted, but not yet approved by the Madison County Weed Board.

The water and sanitation information has been submitted to DEQ. The developer has indicated upon DEQ approval, building envelopes of approximately 1.5 acres will be placed on the final plat near the DEQ approved test pit area. The well and drainfield sites should be permanently staked to help assure that building will occur in approved areas. Lots 1, 3, and 4 will have designated building envelopes at the time of final plat. Lot 2 will not have a designated building envelope because of its small 2.72 acre size. The designation of building envelopes should help minimize visual obstructions as well.

The lots will be irrigated and allow for some grazing. The covenants stipulate a 3-4 inch vegetation height minimum. There will be no more than one hooved animal allowed for each two acres of area on each lot. The subdivision application states that each lot owner will receive publications regarding agriculture on smaller tracts. This will likely help protect the natural environment. Covenants also will prohibit mining activities on all lots as well as set design standards. There will be a maximum building height restriction of 18 ft.

The landowner has also been in the process of cleaning up old unused debris on the property.

E. Effects on Wildlife and Wildlife Habitat

There will likely be some slight displacement of wildlife habitat and connectivity with this subdivision. The property currently supports some white-tail deer, other animals and birds. According to the subdivision application, all perimeter fencing will be wildlife-friendly. This will mitigate some impacts and allow for wildlife movement. Furthermore, the covenants will prevent hunting on the property and also contain provisions for pet control. The Fish, Wildlife, and Parks local biologist has been notified of the project, but has not commented.

F. Effects on Public Health and Safety

There will likely be some impacts on public health and safety associated with this project. The County Office of Emergency Management has provided a letter expressing some safety considerations for this subdivision project. A 10,000 gallon underground cistern with a dry hydrant has been recommended for fire protection and suppression. The subdivision application indicates that an alternative to a 10,000 gallon cistern may be a dry hydrant located on the irrigation sump pond which would be kept filled year-round. A recent comment from Joe Husar, Risk Mitigation Coordinator questioned the utility of a year-round dry hydrant in the irrigation sump pond. There may be issues associated with keeping the pond from freezing during the winter. In any event, the developer should either provide a 10,000 gallon underground cistern or work out an alternative that is acceptable to both the Madison County Office of Emergency Management and the Alder Volunteer Fire Department.

The subdivision application states that County Road Supervisor Dave Schulz has expressed plans to improve the condition of Judy Lane. The developer has provided approximately 3,000 cubic yards of road base to Madison County at no costs to assist with road improvements to Judy Lane. This donation of road materials and any other fair share cost improvements should be worked out with the Road Supervisor prior to final plat. Both the County Office of Emergency Management and the Ruby Valley Ambulance Service have expressed some concerns about the condition of Judy Lane, in particular a stretch of road south of the subdivision property. This southern portion of the road may need improvement now or sometime in the future.

The new subdivision road should be built to county standards as per the Madison County Subdivision Regulations 2006. To ensure that the county will be able to continue acceptable maintenance of Judy Lane, a future Road Improvement District (RID) may be required. An RID waiver statement for Judy Lane should be placed on the final plat. Also, encroachment permits will need to be issued for any access points of Judy Lane.

The Office of Emergency Management has also recommended a 24 ft. culvert to replace the existing bridge over the West Bench Canal, proper signage, defensible and green space around homesites, maneuverable driveways, and fire resistant construction materials. These items could be incorporated into the private covenants to help mitigate negative impacts on public health and safety. The Ruby Valley Ambulance Service also stressed the importance of good signage and adequate access.

The Madison County Planning Office will issue temporary physical addresses that comply with the Emergency 911 system. A permanent address will be issued once each lot is developed and this should be posted. A Declaration of Emergency Services Information must be filed with the final plat.

This subdivision will need DEQ approval for water and sanitation. For more discussion on this topic, see the section above titled, Effects on the Natural Environment.

G. Effects on Other Resources in the County

There will likely be very little impact to other resources in the county. The private covenants prevent mining activities and stipulate downcast exterior lighting. The design standards in the covenants also will help mitigate viewshed issues. It is recommended that each lot buyer be provided with Madison County's Code of the New West brochure.

H. Effects on the Local Economy

This project will likely provide a slight to modest benefit to the local economy. As a result of this subdivision, local businesses and the construction industry will see a slight increase in demand for products and services.

I. Effects on Public Services Provided by Other Entities in the County

Effects on other public services will likely be very minimal due to the low density of the project. No concerns have been expressed by other service providers.

J. Legal and Physical Access

The subdivision would have year-round legal and physical access via the county designated road, Judy Lane. As illustrated by the preliminary plat, Judy Lane runs through the property and would provide access to all of the subdivision lots. The main access via Judy Lane provides a loop system that connects with Upper Ruby Road in two separate locations. This will potentially provide an alternative route to and from the subdivision property.

Lots 1, 2, and 4 will be accessed by a new subdivision road, which will be directly off of Judy Lane. This subdivision road must be built to county standards as defined by the Madison County Subdivision Regulations 2006. Lot 3 will have a separate driveway access off of Judy Lane. County road encroachment permits will be needed for both the subdivision road and the separate driveway access.

Currently there is a bridge that crosses the West Bench Canal and provides access to the property. The subdivision application states that this bridge will be replaced by a 24 ft. culvert as recommended by the West Bench Canal Board.

K. Park Dedication

Under the Montana State law, no parkland dedication is required for minor subdivisions.

L. Conformance with the Comprehensive Plan/Growth Policy

The Madison County Growth Policy identifies maintaining the county's agricultural base as a priority. This subdivision will help maintain the county's agricultural base by both improving and increasing the amount of irrigation on the property. The proposed subdivision substantially complies with the Madison County Growth Policy/Comprehensive Plan. (See Attachment Four).

PROPOSED FINDINGS OF FACT

The preliminary plat and supplements have been reviewed to determine whether or not the proposed subdivision complies with the Montana Subdivision and Platting Act, Madison County Subdivision Regulations, and Madison County Growth Policy/Comprehensive Plan.

In accordance with state law, the Planning Board proposes the following Findings of Fact based on the local government review criteria as set forth in Section 76-3-608, MCA (1999) and the County subdivision regulations.

Application Completeness – Yes.

A. Effects on Agriculture – Mostly positive impacts with the addition of irrigation and improvement of irrigation methods to both the subdivision and adjacent properties. Mitigation measures for any negative impacts include: (1) Implementation of weed plan, (2) Enforcement of pet control covenants, (3) Prevention of overgrazing, and (4) Maintenance of perimeter fencing.

B. Effects on Agricultural Water User Facilities – No significant impacts so long as: (1) A water user's association is established for irrigation management, (2) The West Bench Canal easement shows on the final plat and is respected, and (3) The amount of allocated water is not exceeded.

C. Effects on Local Services – Some increased demand to service new lots.

D. Effects on the Natural Environment – Some potential negative impacts. Negative impacts could be mitigated by: (1) Noxious weed management plan implementation, (2) Reseeding of all areas disturbed by construction, (3) DEQ approval for water and sanitation, (4) Designation of building envelopes on the final plat, and (5) Reasonable restrictions on grazing are implemented.

E. Effects on Wildlife and Wildlife Habitat – Some slight displacement of wildlife and minimal loss of habitat as long as: (1) Wildlife-friendly fencing allows for continued movement, and (2) Covenant restrictions on hunting and pet control provisions are followed.

F. Effects on Public Health and Safety – Some impacts mitigated by: (1) 10,000 gallon underground cistern for fire protection or other acceptable alternative approved by the Office of Emergency Management/Alder Volunteer Fire Department, (2) Subdivision road built to county standards, (3) Fair share road improvements approved by County Road Supervisor, (4) Encroachment permits issued by County Road Supervisor, (5) RID waiver statement on final plat, (6) DEQ approval, (7) Permanent addresses posted in accordance with Madison County E-911 system, and (8) Consideration of defensible space, fire resistant construction materials, and maneuverable driveways in private covenants.

G. Effect on Other Resources in the County – No significant impacts as covenants contain provisions for downcast lighting and building design standards.

H. Effects on the Local Economy – Slight to modest boost for local economy.

I. Effects on Public Services Provided by Other Entities in the County – Very minimal.

J. Legal and Physical Access – Yes, via Judy Lane. Road encroachment permits must be issued and subdivision road must be built to county standards.

K. Parkland Dedication – Not applicable as parkland dedication is not required for minor subdivisions under state law.

L. Conformance with the Growth Policy/Comprehensive Plan – Yes.

Conclusion: With conditions, the proposed subdivision will: (1) be in compliance with all applicable rules and regulations; (2) be in substantial compliance with the Madison County Growth Policy/Comprehensive Plan; and (3) have an acceptable impact on each of the six public interest criteria, plus other resources in the County, the local economy, and public services provided by other entities in the County.

STAFF RECOMMENDATION

Based on the above discussion and Proposed Findings of Fact, the Planning Office recommends preliminary plat approval be granted to Cote Meadows Minor Subdivision, subject to the conditions listed below.

[Standard conditions]

1. Any and all adopted State and County requirements and standards which apply to this proposed subdivision must be met unless otherwise waived for cause by the governing body.
2. A notarized declaration of “Right to Farm” and “Emergency Services Information” (Appendix R. of the September 2006 Madison County Subdivision Regulations) must be filed with the final plat.
3. The final plat must be accompanied by a certification by a licensed title abstractor showing the owners of record, the names of any lienholders or claimants of record against the land, and the written consent to the subdivision from any lienholders or claimants of record against the land.

4. Road, utility, and canal easements shall be clearly shown and labeled on the final plat.
5. Future modification of any elements shown on the plat may not be made without County review and approval.
6. Prior to final plat approval, written approval of a noxious weed management plan must be obtained from the Madison County Weed Board.

[Additional site-specific conditions]

7. Prior to final plat approval, the Montana Department of Environmental Quality must approve all lots for water, sewer, solid waste, and storm drainage.
8. The final plat should include the following statement, "Prior to any construction requiring sanitation, the lot owner must first obtain a Madison County septic permit." (It is also recommended the covenants include this stipulation as well, because many lot owners may not actually see the recorded final plat.)
9. Prior to final plat approval, each lot must be assigned a *temporary* physical address in accordance with Madison County's rural addressing and Emergency 911 system. Individual address signs shall be installed once permanent addresses are assigned.
10. Encroachment permits for the subdivision road and any driveways off of Judy Lane shall be recorded at or before the time of final plat approval.
11. Prior to final plat approval, the developer shall consult with the Madison County Road Supervisor to satisfy any fair share obligation that is deemed necessary to improve Judy Lane. Any fair-share payment shall be made in accordance with final calculations of the Road Supervisor.
12. The final plat shall include a statement whereby lot owners waive their right to protest any rural improvement district (RID) designated by Madison County to upgrade and/or maintain Judy Lane.
13. The final plat must identify building envelopes which include all buildings for each lot except Lot 2, **or** a building envelope plan shall accompany the final plat (subdivider's choice.) If the subdivider chooses to submit a building envelope plan, the County Planning Office will serve as a repository for the plan. Proposed building envelope changes shall require County review and approval. The face of the final plat shall reference the building envelope plan. As per the subdivision application, the building envelopes will be approximately 1.5 acres in size.
14. Prior to final plat, the public access subdivision road shall be constructed by the developer in compliance with the design standards outlined in the Madison County Subdivision Regulations 2006. The subdivision road shall be classified as a "low-density, level/rolling road" (See pg. 57 of the regulations). In addition, a 24 ft. culvert on the subdivision road shall replace the existing bridge that crosses the West Bench Canal. A subdivision road sign must be installed, and reseeding of all disturbed areas must occur. All road maintenance, including but

not limited to grading and snowplowing and removal, shall be the responsibility of the landowners, not Madison County. In the event that the road and other such required improvements are not completed prior to the final plat submission, an Improvements Agreement and irrevocable Letter of Credit or equivalent guarantee (See Subdivision Regulations, Appendix M.) shall be filed with the Board of County Commissioners prior to final plat approval. The amount of the Letter of Credit shall be 125% of the engineer's estimated cost for the improvements. Any letter of credit must cover the time period needed to complete project improvements.

15. Prior to final plat approval, an underground cistern with a 10,000 gallon capacity shall be installed on-site, at a location and under the specifications acceptable to the Office of Emergency Management and the Alder Rural Fire Department or an alternative arrangement for fire protection that is acceptable to the Office of Emergency Management and the Alder Volunteer Fire Department. Maintenance of the cistern and its above- ground connection shall be the ongoing responsibility of the subdivision lot owners. If an acceptable alternative is permitted, the lot owners shall be responsible for any necessary maintenance. In the event that the fire protection facility is not completed prior to final plat submission, the facility shall be covered in the Improvements Agreement described above.
16. Prior to final plat, a water user agreement shall be executed to allocate water rights and maintain irrigation facilities.
17. Prior to final plat approval, the subdivision road name, Cote Lane, must be altered to a name acceptable to the Madison County Sheriff's Department for E-911 purposes.

To ensure compliance with the conditions listed above, the final plat and accompanying documents shall be submitted to the County Planning Office, prior to final plat approval by the Board of Madison County Commissioners and recording by the Madison County Clerk and Recorder.

If the preliminary plat is approved, the landowner shall have three calendar years from the date of County Commission approval to apply for final plat approval. The landowner may request a time extension of preliminary plat approval, but such request must be received in writing thirty (30) days prior to the three-year expiration date, in accordance with p. 22 of the Madison County Subdivision Regulations.

In accordance with Montana state law, the subdivider may appeal Madison County's decision on this subdivision application.

Submitted by: _____
Staci Beecher, Planner 1

Reviewed by: _____
Doris Fischer, Planning Director